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Policing Unfair Imports

The U.S. Example

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and
Tracy Murray

Unfair trade cases are where the action is because they are broad enough to handle all the action.

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WORKING PAPERS

Trade Policy

This paper — a product of the Trade Policy Division, Country Economics Department — is part of a larger effort in PRE to understand the economics of the emergence of “fairness” as a standard for regulating international trade and its implications for the continued openness of the international trading system and its continued functioning as an important vehicle for development. Copies are available free from the World Bank, 1818 H Street NW, Washington DC 20433. Please contact Nellie Artis, room N10-013, extension 38010 (25 pages with tables).

Finger and Murray dug out the numbers on U.S. unfair imports cases — how many, against which countries, with what result — to find out how the United States uses antidumping and countervailing duty actions to regulate imports.

They describe the procedures followed by the Commerce Department and the International Trade Commission, survey cases and outcomes in the 1980s, and analyze what drives the unfair trade laws.

The pattern of petitions and results, they conclude, suggests strongly that injury to U.S. producers beset by import competition is what the antidumping and countervailing duty laws are about.

That is why the pattern of antidumping cases is not particularly different from the pattern of antisubsidy cases — and why the frequency of cases against politically powerful countries is the same as the frequency of cases against politically weaker ones.

The political strength of the exporting country does influence the *form* of import restriction the U.S. government will use.

A powerful country will receive the courtesy of a negotiated settlement. A less powerful country will in due course receive determinations through normal administrative procedures.

In short, unfair trade cases are where the action is because they are broad enough to handle all the action.

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Policing Unfair Imports: The U.S. Example

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J. M. Finger
and
Tracy Murray

Table of Contents

| | | |
|-------------|--|-----------|
| I. | Sequence and Time Limits of U.S. Procedures | 2 |
| II. | Cases and Outcomes in the 1980s | 7 |
| III. | What Drives the Unfair Trade Laws? | 15 |
| IV. | Conclusion | 20 |
| | References | 21 |
| | Annex | 22 |

POLICING UNFAIR IMPORTS: THE UNITED STATES EXAMPLE

J.M. Finger and Tracy Murray

Our task in writing this paper was to dig out the numbers on United States unfair imports cases -- how many, against which countries, to what result -- and to provide an overall picture of how antidumping and countervailing duty actions are used by the United States to regulate imports. Do they tell us anything about where United States import policy is going?

The information we will present indicates that the unfair trade laws provide the standard against which imports are evaluated in the 1980s and the rationale by which most import restrictions are justified. But antidumping or countervailing duty actions are not always the way import restrictions are implemented. Half of the cases undertaken in the 1980s have led to negotiated export restraints rather than to antidumping or countervailing duties. We have also found that in almost every unfair trade case that gets to a formal determination the US government finds that the foreigners are unfair -- that the foreign merchandise has been dumped or subsidized. When the US government turns down a petition for an import restriction it is almost always because the injury test is negative -- the government finds that the imports in question are not causing serious harm to domestic producers. These findings suggest that the definition of dumping and subsidy are broad enough that the economics of the unfair trade remedies is effectively the same as the economics of the escape clause.

An alternative explanation is that petitions are self-screened: petitions that could not prove subsidy or injury are not submitted. But this alternative, we will explain, is not consistent with the facts.

I. SEQUENCE AND TIME LIMITS OF U.S. PROCEDURES

Industries will complain from time to time about import competition, hence a government must have a way to decide if and when it will impose import restrictions. Current United States law provides several tracks along which a domestic firm or industry may petition the government for protection from import competition, the antidumping and countervailing duty mechanisms being two of these. ^{1/} Though the US Constitution clearly gives Congress (rather than the Executive and Judicial branches of the US government) the right to regulate imports, the restrictions that result from administrative procedures like an antidumping or countervailing duty case do not require a specific Congressional vote to make them legal. Congress, in passing the US trade law, has delegated that legal authority. The Commerce Department may impose such restrictions when it and the International Trade Commission determine that the conditions Congress has specified have been met.

An antidumping or countervailing duty investigation begins when the government receives a petition from a domestic industry alleging that

^{1/} The others, identified by the sections of US trade law that establish them are "201" or safeguards cases; "301" cases, mainly about unfair foreign barriers to US exports; "337" cases, mostly about patent infringement, and "406" cases that involve disruption by imports from communist countries. Detailed descriptions are provided in Kaye, Plaia and Hertzberg (1987).

imports are being dumped or are benefitting from a subsidy. The petition is filed simultaneously with the Commerce Department and the International Trade Commission. By law, it must include information "reasonably available to the petitioner" to support the allegation. The government must determine within 20 days whether the petition meets the standards of the law. If not the petition is dismissed, but in all likelihood a more complete petition would be resubmitted within a few weeks.

When a petition is accepted the Commerce Department begins an investigation to determine if the imported goods in question are dumped or receive a subsidy. All antidumping and most countervailing duty cases include a simultaneous but separate investigation by the International Trade Commission to determine if the competing domestic industry is experiencing or is threatened by material injury from these imports. 2/

The International Trade Commission has 45 calendar days from receipt of a petition to determine if "the best available information" provides a "reasonable indication" that the domestic industry has been or is threatened with material injury by reason of unfair imports. A negative determination terminates the case.

Trade law charges the Commerce Department to determine at the preliminary level if there is a "reasonable basis to believe or suspect" that imports benefit from an unfair trade practice. A negative preliminary determination on subsidization or dumping does not end the case. Either

2/ Injury tests are included in countervailing duty cases involving duty-free goods, plus all cases against signatories to the GATT Subsidies Code, Taiwan, and economies to whom the United States has extended by treaty unconditional most favored nation status.

way, the case proceeds to a final determination. However, an affirmative preliminary determination triggers immediate "suspension of liquidation," a negative preliminary determination does not. Under suspension of liquidation the importer must post a bond to guarantee payment of antidumping or countervailing duties if the final determination is also positive. The size of the bond is based on the preliminary estimate of the effect of the subsidy on the exporter's price, or of the margin of dumping. Suspension of liquidation imposes, in effect, an import deposit requirement.

Positive determinations are necessary at the final stage on injury and on subsidization or dumping before an antidumping duty or countervailing duty order is issued. Before a final determination is reached there are several possible avenues to a negotiated settlement. The major of these are a quantitative export restraint agreement or an agreement to cease dumping or to eliminate the export subsidy. The foreign action must be monitorable and the case can be reopened quickly if the US government concludes that the terms of the agreement have not been met.

The sequence of the parts of a countervailing duty or an antidumping case is easier to communicate in tabular form, and is therefore laid out in Table 1. The order in which the various steps are completed is as listed, 1 then 2 then 3 then 4. Countervailing duty cases that do not include an injury test proceed through the sequence as if they received a positive injury determination at the preliminary and at the final stage.

The relevant time limits are listed in Table 2. Line C2 in Table 2 is the point of decision on suspension of liquidation, for example a normal countervailing duty case will reach this decision in no more than 85 days. The duration of suspension of liquidation is, in normal cases, 120

**Table 1: SEQUENCE OF THE PARTS OF A COUNTERVAILING DUTY
OR ANTIDUMPING CASE IN THE UNITED STATES**

| Event | RESULT |
|--|--|
| <u>Preliminary determinations</u> | |
| 1. Injury | |
| Negative | Case ends |
| Positive | Case continues |
| 2. Subsidy or dumping | |
| Negative | Case continues |
| Positive | Case continues and suspension of liquidation |
| <u>Final determinations</u> | |
| 3. Subsidy or dumping | |
| Negative | Case ends and suspension of liquidation is lifted |
| Positive | Case continues, suspension of liquidation continued or initiated |
| 4. Injury | |
| Negative | Case ends and suspension of liquidation is lifted |
| Positive | Case ends, CVD or AD order is issued |

Table 2: TIME LIMITS FOR THE PARTS OF A COUNTERVAILING DUTY OR ANTIDUMPING CASE IN THE UNITED STATES

| Event | Time limit (in calendar days) and event at which the period of time begins | | | | | |
|--|--|-----------------------|-------------------|---------------------------------------|---|---|
| | Countervailing duty cases | | Antidumping Cases | | | |
| | Normal | Complicated <u>b/</u> | Normal | Complicated <u>a/</u> not Extended | Extended <u>c/</u> not Complicated <u>a/</u> | Complicated <u>a/</u> and Extended <u>c/</u> |
| A. Petition submitted | na | na | na | na | na | na |
| B. Petition accepted or rejected | 20, A | 20, A | 20, A | 20, A | 20, A | 20, A |
| C. Preliminary determinations | | | | | | |
| 1. Injury | 45, A | 45, A | 45, A | 45, A | 45, A | 45, A |
| 2. Subsidy or dumping <u>a/</u> | 85, A | 150, A | 160, A | 210, A | 160, A | 210, A |
| D. Final determinations | | | | | | |
| 1. Subsidy or dumping | 75, C2 | 75, C2 | 75, C2 | 75, C2 | 135, CA | 135, C2 |
| 2. Injury | | | | | | |
| if C2 is affirmative | 120, C2 | 120, C2 | 120, C2 | 120, C2 | 180, C2 | 180, C2 |
| if C2 is negative | 75, D1 | 75, D1 | 75, D1 | 75, D1 | 75, D1 | 75, D1 |
| Total days | | | | | | |
| If C2 is affirmative | 205, A | 270, A | 280, A | 330, A | 340, A | 390, A |
| If C2 is negative | 235, A | 300, A | 310, A | 360, A | 370, A | 420, A |
| Suspension of liquidation (no. of days) | 120, C2 | 120, C2 | 120, C2 | 120, C2 | 180, C2 | 180, C2 |

na not applicable

a/ The preliminary subsidy or dumping determination may not be made before the preliminary injury determination.

b/ Some time limits on dumping or subsidization investigations may be extended if (a) the petitioner requests it, and (b) the Commerce Department concludes that all parties are cooperating and determines that the case is extraordinarily complicated because of (i) the number and complexity of subsidy practices or dumping transactions to be investigated, (ii) the novelty of the issues, or (iii) the number of firms whose activities are to be investigated.

c/ The Commerce Department may postpone a final dumping determination (i) if the preliminary dumping determination was affirmative and the extension is requested by exporters of a significant share of the merchandise alleged to be dumped. (ii) if the preliminary dumping determination was negative and the extension is requested by the petitioner.

days, but if exporters request an extension of the case, liquidation might be suspended for as long as 180 days. (When liquidation is suspended the petitioner cannot request that the final decision be delayed.) From submission of the petition to final determination, a countervailing duty case can take no more than 300 days, an antidumping case no more than 420. These "length of proceedings" numbers roughly measure the period over which importers and exporters will be influenced by the uncertainty a case generates. However, before a firm files a petition it often makes inquiries with law firms familiar with such cases and holds informal discussions with the Commerce Department. These inquiries and discussions are not kept secret, and they can begin to generate uncertainties for importers and exporters.

II. CASES AND OUTCOMES IN THE 1980s

There have been a lot of cases in the 1980s, 774 through 1988 and they have touched a lot of countries, 59 in all. The country coverage of cases is summarized in Table 3 and listed by country in Annex Tables 1 and 2.

Country incidence

Which countries have been hit by a larger share of unfair trade cases than their share of US imports would predict? The second and third columns in Table 3 answer this question. First, imports from Eastern Europe generated, per dollar, an unusually high number of unfair trade cases, the observation holding for each individual country as well as for the group as a whole. Developed countries as a group were more lightly hit, but among them some important trading partners of the United States were hit often and others not so often. US imports from European Community member states were

Table 3: COUNTRIES THAT ARE THE OBJECT OF US ANTIDUMPING AND COUNTERVAILING CASES COMPARED WITH THE SHARE THEY PROVIDE OF US MERCHANDISE IMPORTS

(antidumping and countervailing duty cases completed, 1980-1988)

| Country or Group of Countries | Total number of cases | Total cases against this country or group as a % of totals against all countries | Percentage of 1987 US merchandise imports that originate in this country or group | Percentages with restrictive outcomes (including VERs) |
|-------------------------------|-----------------------|--|---|--|
| All Countries | 774 | 100 | 100 | 70 |
| Developed Countries | 450 | 58 | 63 | 65 |
| Developing Countries | 286 | 37 | 36 | 75 |
| Eastern European Countries | 38 | 5 | 0.5 | 87 |
| European Community | 304 | 40 | 20 | 64 |
| Brazil | 56 | 7 | 2 | 79 |
| South Africa | 20 | 2.6 | 0.3 | 100 |
| Korea | 36 | 4.7 | 4.2 | 86 |
| Mexico | 35 | 4.5 | 4.9 | 91 |
| Taiwan, China | 29 | 3.7 | 6.1 | 62 |
| Hong Kong | 1 | 0.1 | 2.4 | 100 |
| Singapore | 6 | 0.8 | 1.5 | 67 |
| Canada | 35 | 5 | 18 | 54 |
| Japan | 49 | 6 | 21 | 69 |

particularly contentious. The Community supplies 20 percent of US imports, bears 40 percent of the unfair trade cases. 3/ Japan, on the other hand, supplies about the same part of US imports, but was the object of only 1/6 as many cases; 49 on imports from Japan versus 304 on imports from the European Community. Likewise, per dollar of imports from Canada there were relatively few unfair trade cases.

Low figures on this scale do not of course, mean that the cases a country experienced were not troublesome. Canada considered US unfair trade cases sufficiently troublesome that their control was a principal Canadian objective when the Canada-US Free Trade Agreement was negotiated.

Developing versus developed

Developing countries as a group are not unusually burdened. They supplied 36 percent of US imports in 1987 4/ and were the objects of a comparable 37 percent of the cases. Among major developing country exporters, Brazil is the only one whose share of US unfair trade cases is far above its share of the US import market; 7 percent versus 2 percent. Korea has been hit in proportion to its share of US imports but imports from Hong Kong, Singapore and Taiwan, China, have been relatively free of unfair trade complaints.

3/ Country by country, only West Germany would have a smaller figure in the second column of Table 3 than in the third.

4/ Thirty-eight percent in 1984.

Antidumping versus countervailing duty

The numbers of antidumping and countervailing duty cases were very nearly the same; 385 antidumping cases and 389 countervailing duty cases. Table 4 shows that when we subdivide by developed versus developing countries the even split between antidumping and countervailing duty cases is maintained. Looking at this "coin" from the other side, there is no tendency for protectionist interests in the US to use one kind of unfair trade complaint against developed, another kind against developing countries. They use both instruments against both groups.

Cases against developing countries led to restrictive outcomes slightly more often than cases against developed -- roughly 3/4 of the cases against developing versus 2/3 of the cases against developed countries. (Table 4) Cases against developing countries were superseded less often by negotiated, voluntary export restraints -- only 15 percent of cases as compared with 36 percent of cases against developed countries. A larger share of cases against developing countries come to restrictive outcomes, but more often these outcomes were reached within the routine of the antidumping and countervailing duty law, not by recourse to a negotiated restraint.

Many cases were superseded by negotiated export restraints

Nearly half (348 of 774) of the cases were superseded by negotiated export restraints. During 1980 to 1985 the US steel industry filed complaints against almost every exporter of steel. These complaints were the 1980's installment of a steel industry campaign for import protection that had been under way since the 1960s. As incorporated into the International Trade Commission work program, they came to over 300 cases.

Table 4: COUNTERVAILING DUTY AND ANTIDUMPING OUTCOMES COMPARED

| Country or group | Antidumping as a percentage of total number | Restrictive outcomes as a percentage of total number of cases | | | VERs as a percentage of restrictive outcomes | | |
|----------------------------|---|---|---------------------|------|--|---------------------|------|
| | | Anti- dumping | Counter- vailing | Both | Anti- dumping | Counter- vailing | Both |
| All countries | 50 | 72 | 67 | 70 | 63 | 66 | 64 |
| Developed countries | 49 | 69 | 61 | 65 | 65 | 82 | 74 |
| Developing countries | 46 | 73 | 77 | 75 | 55 | 46 | 49 |
| Eastern European countries | 87 | 91 | 60 | 87 | 77 | 100 | 78 |

The strategy of the industry in the 1980s was to pressure the US government to negotiate market shares with all significant suppliers and to pressure foreign suppliers to accept such restraints. The industry achieved its goals. The President, in 1984, announced a "Steel Industry Stabilization Program," which included the negotiation of export limits with all suppliers. Congress, as part of the Trade and Tariff Act of 1984, provided the President the authority to enforce negotiated limits at the US border. The law specified an aggregate import share of 17.0 percent to 20.2 percent, but specified this global quota as a "sense of Congress" rather than a legally established limit. In the next paragraph of the law, however, the Congress promised further actions if this did not get the job done. It did get the job done.

Later, the US electronics industry used unfair trade charges to force the US government to negotiate and Japan to accept export limits on semiconductors. In a few instances antidumping or countervailing duty charges were used to force negotiation of an export limit on an apparel item from a country that was not subject to a limit under the multifibre arrangement.

Do the salvos of unfair trade complaints that forced negotiations of export restraints overlay concentrations of particularly bad or particularly injurious foreign practices? Not so, according to the determinations reached in the resulting cases. Of cases superseded by VERs, 42 percent of those that were completed were affirmative; i.e., found that the imports were dumped or subsidized and that they had injured US producers. Of cases not supersede by VERs, 48 percent reached that determination.

Injury is what it is really about

Dumping or subsidization is found almost always. Table 5 reports the outcomes of cases that reached a formal determination -- affirmative or negative on the questions of subsidy, dumping and injury. Of cases that did not receive a formal affirmative or negative final determination the largest part, 169 cases, were superseded by a negotiated export restraint agreement or a suspension agreement within the unfair trade laws. Another 48 cases were withdrawn or terminated without an announced capitulation or adjustment by the exporter. Of these, 25 were withdrawn or terminated by the Commerce Department, who are responsible for the dumping or subsidy investigation, the others terminated by the International Trade Commission. If we assume that the 169 (the cases that came to a restrictive informal outcome) would have received an affirmative subsidy or dumping finding and the 25 a negative finding, then add these to the data in Table 5, the percentage negative changes from 11.0 percent to 11.5 percent. Thus, as the table reports, nine times out of ten subsidization or dumping is detected.

The figures in Table 5 refer to what we might call the "calibration" of the individual tests -- the percentages of Affirmatives and Negatives produced by each individual test. The overall evaluation of a petition involves not only this calibration, but also the sequencing of the tests as well. For example, a case that receives a negative final dumping determination ends there. It does not go on to a final injury determination. (Table 1 above tabulates the sequence of the tests.)

When we take both sequencing and calibration into account, we see the injury test, not the dumping or subsidy test, determines which petitions are unworthy, i.e., the injury test bears the burden of rejecting

**Table 5: NEGATIVE AND AFFIRMATIVE DETERMINATIONS a/ IN SUBSIDY,
DUMPING AND INJURY TESTS: NUMBERS AND PROPORTIONS**

| | Affirmative number | Negative number | percentage |
|---------------------------|-----------------------|--------------------|------------|
| Subsidy and dumping tests | | | |
| Preliminary | 403 | 50 | 11 |
| Final | 484 | 60 | 11 |
| Injury tests | | | |
| Preliminary | 444 | 129 | 23 |
| Final | 190 | 113 | 37 |

a/ Only cases that reached an affirmative or a negative determination are included, i.e., suspended, terminated, etc., cases are not included. Some cases that were superseded by VERs had previously reached final determinations.

petitions for protection. Consider, for purposes of exposition, a typical basket of 100 petitions that end with a formal determination, i.e., are not withdrawn when a VER is negotiated or suspended by a "cease and desist" agreement. Of the 100, 23 would be rejected by a preliminary determination of no injury. Of the 77 that remained, 8 (that is, 11 percent) would be dismissed by a determination of no subsidy or dumping, and of the other 69, 25 (that is, 37 percent) would be dismissed by a final determination of no injury. Thus 56 of the initial 100 petitions would not lead to a final antidumping or countervailing duty order. Of the 56, 48 would be dismissed by a negative injury determination. That is 6 times as many as the 8 dismissed by a negative subsidy or dumping determination.

III. WHAT DRIVES THE UNFAIR TRADE LAWS?

The obvious explanation behind these facts is that injury is what the unfair trade laws are really about. Might there be however another explanation? In particular, might the injury test appear to be the critical one because petitioners do not file cases that would fail the dumping or subsidy test?

Motives for petitions

Once the mechanisms are in place, filing a complaint could reduce import competition several ways. A bit of thought provides the following list:

- (1) The outcome of resulting investigation is a restrictive antidumping or countervailing duty order, or a restrictive agreement under the antidumping or countervailing duty law.

- (2) The costs to the exporter of responding to the petition, or the uncertainty it generates about the profitability of developing market further lead the exporter to cut back his efforts to export. Likewise, importers will be less certain of the price they will pay in the future and may shift to other sources of supply.
- (3) Filing the petition helps to build political support for the import-competing industry -- support that increases the likelihood that Congress will take direct action to protect the industry, or that the Executive will pressure the exporting country to limit its exports.
- (4) Such possibilities will soften up the exporter, make him receptive to negotiation of the sort of export reduction the world now labels "voluntary" -- a VER.

In short, the petitioner's interests are served by any outcome or influence that will disadvantage his competitors. A formal antidumping duty order is only one of the ways.

Self-screening would be for injury, not for dumping or subsidy

Jagdish Bhagwati, in his recent book Protectionism, has emphasized the "harassment effect" that pending cases impose on exporters. But to the degree that petitioners use unfair trade cases to harass import competition it will be less important for them to self-screen for dumping or subsidy than for injury. The preliminary injury test comes 45 days after a petition is filed. If it is affirmative the case continues. (See Table 2) Importers and exporters will be burdened for at least 205 days, maybe for 420 days, by the uncertainties of a pending case -- and it does not matter

if the preliminary subsidy or dumping determination is negative or positive. The case continues either way. Self-screening thus would pay more attention to the injury test, and if the dumping and subsidy tests were equally tight as the injury test the subsidy or dumping test would be the one more often negative. The facts as we saw above are the opposite.

Breaking down the data between cases superseded by VER and those not superseded provides more evidence that the legal definitions of dumping or of subsidy are very broad. The strategy of the steel industry, which filed 95 percent of the cases that have been superseded by VERs, was to overload the system; to file so many cases that the US government would not have the capacity to process them, and would be forced to negotiate VERs with exporters. One might expect that this strategy would push on the limits of situations in which the subject exports were in fact dumped or subsidized. Yet, as Table 6 shows, the same 89 percent of cases received affirmative determinations. Imports of almost every steel product from almost every source -- complained about by an industry that clearly was injured by import competition -- could not find the limits of the legal definitions of dumping and subsidy.

Direct evidence

Direct evidence that injury is what the unfair trade screening process is really about can be taken from a study by Finger, Hall and Nelson. They analyzed 1975 through 1979 antidumping and countervailing duty cases to see what factors explained the outcomes of subsidy and dumping determinations.

Comparative costs, not pricing practices turned out to be the explanation. If a case involved a product in which US producers have

**Table 6: PERCENTAGE OF AFFIRMATIVE DETERMINATIONS IN FINAL SUBSIDY
AND DUMPING DETERMINATIONS: CASES SUPERSEDED VERSUS NOT
NOT SUPERSEDED BY VRS**

| | Superseded by VRS | Not Superseded by VRS |
|------------------------|----------------------|--------------------------|
| Subsidy | | |
| Negative number | 12 | 17 |
| Affirmative number | 75 | 134 |
| Affirmative percentage | 86 | 89 |
| Dumping | | |
| Negative number | 5 | 16 |
| Affirmative number | 59 | 135 |
| Affirmative percentage | 92 | 89 |
| Subsidy and dumping | | |
| Negative number | 17 | 33 |
| Affirmative number | 134 | 269 |
| Affirmative percentage | 89 | 89 |

comparative advantage, the case came usually to a negative subsidy or dumping determination. (The research was an analysis of the subsidy and dumping test, not of the injury test.) But cases involving products in which the United States does not have comparative advantage, (hence US producers are likely to be injured by import competition) usually come to an affirmative dumping or subsidy determination. The researchers concluded:

A major difference between our view and others has to do with what the [antidumping, countervailing duty and escape clause] mechanisms actually do. In law, the escape clause deals with injury to US producers from import competition and the [antidumping and countervailing duty] mechanisms with the fairness of business practices used in the US market by foreigners. But in economics we find that they both deal with the same thing -- injury from imports and the associated gains from trade. The functional difference between the cases which belong on one track or the other is the size and perhaps the degree of public awareness of the interests at stake, not the nature of those interests. Antidumping and countervailing duties are, functionally, the poor (or small) man's escape clause. (pp. 46ff.)

There are few escape clause cases

Finally, the escape clause involves no test of the fairness of import competition, only an injury test. If the distinction between fair and unfair competition mattered, complaints that could pass the unfair trade laws' injury test but would not pass the dumping or subsidy test.

would be escape clause cases. But there are almost no escape clause cases, four per year in the 1980s compared with eighty-six unfair trade cases per year. For petitioners, unfair trade cases do have procedural advantages, they can be applied to imports from a particular country and the President does not have authority to set aside an affirmative decision. But these procedural advantages come into play only if the escape clause standards for dumping or injury are broad enough that the unfair trade mechanisms are effective alternatives.

IV. CONCLUSION

The patterns of petitions and of results suggests strongly that injury to US producers beset by import competition is what the antidumping and countervailing duty laws are about. That is why the pattern of antidumping cases is not particularly different from the pattern of antisubsidy cases, and why the frequency of cases against politically powerful countries is the same as the frequency against weaker ones. The political strength of the exporting country does influence the form of import restriction the US government will use. A powerful country will receive the courtesy of a negotiated settlement, a less powerful one will receive in due course the determinations made through normal administrative procedures.

In sum, unfair trade cases are where the action is because they are broad enough to handle all the action.

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Annex Table 1

UNITED STATES ANTIDUMPING CASES, 1980-1988

By Country and Outcome

(number of cases)

| Country | <u>Restrictive</u> | | | Not Restrictive | Total All Cases |
|-----------------------------------|--------------------|-------|-------|--------------------|-----------------------|
| | VER | Other | Total | | |
| Developed Countries | | | | | |
| Australia | 1 | 0 | 1 | 1 | 2 |
| Austria | 4 | 0 | 4 | 1 | 5 |
| Canada | 6 | 8 | 14 | 7 | 21 |
| European Community | 66 | 20 | 86 | 41 | 127 |
| Belgium | 7 | 2 | 9 | 1 | 10 |
| France | 9 | 4 | 13 | 7 | 20 |
| Germany | 12 | 3 | 15 | 10 | 25 |
| Greece | 0 | 0 | 0 | 1 | 1 |
| Italy | 6 | 7 | 13 | 10 | 23 |
| Luxembourg | 6 | 0 | 6 | 0 | 6 |
| Netherlands | 5 | 1 | 6 | 3 | 9 |
| Portugal | 1 | 1 | 2 | 0 | 2 |
| Spain | 10 | 1 | 11 | 4 | 15 |
| United Kingdom | 10 | 1 | 11 | 5 | 16 |
| Finland | 4 | 0 | 4 | 0 | 4 |
| Japan | 13 | 19 | 32 | 12 | 44 |
| New Zealand | 0 | 1 | 1 | 1 | 2 |
| Norway | 0 | 0 | 0 | 1 | 1 |
| South Africa | 5 | 1 | 6 | 0 | 6 |
| Sweden | 0 | 4 | 4 | 0 | 4 |
| Switzerland | 0 | 0 | 0 | 4 | 4 |
| Eastern European Countries | | | | | |
| Czechoslovakia | 2 | 0 | 2 | 0 | 2 |
| East Germany | 4 | 2 | 6 | 1 | 7 |
| Hungary | 2 | 1 | 3 | 1 | 4 |
| Poland | 6 | 0 | 6 | 0 | 6 |
| Romania | 6 | 2 | 8 | 0 | 8 |
| USSR | 0 | 1 | 1 | 1 | 2 |
| Yugoslavia | 3 | 1 | 4 | 0 | 4 |
| | 23 | 7 | 30 | 3 | 33 |

| Country | Restrictive | | | Not Restrictive | Total All Cases |
|----------------------------|-------------|-------|-------|--------------------|-----------------------|
| | VER | Other | Total | | |
| Developing Countries | | | | | |
| Argentina | 0 | 2 | 2 | 3 | 5 |
| Brazil | 14 | 2 | 16 | 5 | 21 |
| Chile | 0 | 2 | 2 | 0 | 2 |
| China | 3 | 9 | 12 | 3 | 15 |
| Colombia | 0 | 1 | 1 | 3 | 4 |
| Costa Rica | 0 | 1 | 1 | 0 | 1 |
| Ecuador | 0 | 1 | 1 | 0 | 1 |
| El Salvador | 0 | 0 | 0 | 1 | 1 |
| Hong Kong | 0 | 1 | 1 | 0 | 1 |
| India | 0 | 2 | 2 | 1 | 3 |
| Iran | 0 | 1 | 1 | 0 | 1 |
| Israel | 0 | 2 | 2 | 1 | 3 |
| Kenya | 0 | 1 | 1 | 0 | 1 |
| Korea | 14 | 3 | 17 | 5 | 22 |
| Mexico | 3 | 2 | 5 | 1 | 6 |
| Peru | 0 | 0 | 0 | 1 | 1 |
| Philippines | 0 | 1 | 1 | 0 | 1 |
| Singapore | 0 | 2 | 2 | 2 | 4 |
| Taiwan | 9 | 5 | 14 | 8 | 22 |
| Thailand | 0 | 3 | 3 | 0 | 3 |
| Turkey | 0 | 2 | 2 | 0 | 2 |
| Venezuela | 10 | 1 | 11 | 1 | 12 |
| Totals | | | | | |
| All Countries | 175 | 104 | 279 | 106 | 385 |
| Developed Countries | 99 | 53 | 152 | 68 | 220 |
| Developing Countries | 53 | 44 | 97 | 35 | 132 |
| Eastern European Countries | 23 | 7 | 30 | 3 | 33 |

Annex Table 2

UNITED STATES COUNTERVAILING DUTY CASES, 1980-1988

By Country and Outcome

(number of cases)

| | <u>Restrictive</u> | | | | <u>Total</u> | |
|-----------------------------------|--------------------|-------------|-------------------------|-------|--------------------|--------------|
| | VER | Affirmative | Suspension Agreement | Total | Not Restrictive | All Cases |
| Developed Countries | | | | | | |
| Australia | 1 | 1 | 0 | 2 | 1 | 3 |
| Austria | 4 | 0 | 0 | 4 | 1 | 5 |
| Canada | 1 | 3 | 1 | 5 | 9 | 14 |
| European Community | 95 | 5 | 10 | 110 | 67 | 177 |
| Belgium | 10 | 0 | 1 | 11 | 6 | 17 |
| Denmark | 0 | 0 | 1 | 1 | 6 | 7 |
| France | 14 | 2 | 1 | 17 | 11 | 28 |
| Germany | 11 | 0 | 1 | 12 | 6 | 18 |
| Greece | 0 | 0 | 1 | 1 | 0 | 1 |
| Ireland | 0 | 0 | 1 | 1 | 5 | 6 |
| Italy | 11 | 1 | 1 | 13 | 11 | 24 |
| Luxembourg | 7 | 0 | 1 | 8 | 5 | 13 |
| Netherlands | 5 | 1 | 1 | 7 | 6 | 13 |
| Portugal | 1 | 1 | 0 | 2 | 0 | 2 |
| Spain | 22 | 0 | 0 | 22 | 4 | 26 |
| United Kingdom | 12 | 0 | 1 | 13 | 5 | 18 |
| EC Policies | 2 | 0 | 0 | 2 | 2 | 4 |
| Finland | | | | | | |
| Japan | 2 | 0 | 0 | 2 | 3 | 5 |
| New Zealand | 0 | 3 | 0 | 3 | 4 | 7 |
| Norway | 0 | 0 | 0 | 0 | 1 | 1 |
| South Africa | 13 | 1 | 0 | 14 | 0 | 14 |
| Sweden | 0 | 1 | 0 | 1 | 3 | 4 |
| Switzerland | | | | | | |
| Eastern European Countries | | | | | | |
| Czechoslovakia | 1 | 0 | 0 | 1 | 0 | 1 |
| East Germany | 0 | 0 | 0 | 0 | 1 | 1 |
| Hungary | | | | | | |
| Poland | 1 | 0 | 0 | 1 | 0 | 1 |
| Romania | | | | | | |
| USSR | 0 | 0 | 0 | 0 | 1 | 1 |
| Yugoslavia | 1 | 0 | 0 | 1 | 0 | 1 |

| | Restrictive | | | | Not Restrictive | Total All Cases |
|-----------------------------|-------------|-------------|----------------------|-------|-----------------|-----------------|
| | VER | Affirmative | Suspension Agreement | Total | | |
| Developing Countries | | | | | | |
| Argentina | 0 | 3 | 1 | 4 | 2 | 6 |
| Brazil | 24 | 4 | 0 | 28 | 7 | 35 |
| Chile | 0 | 1 | 0 | 1 | 0 | 1 |
| China | 0 | 1 | 0 | 1 | 0 | 1 |
| Costa Rica | 0 | 2 | 0 | 2 | 0 | 2 |
| Colombia | 0 | 3 | 0 | 3 | 1 | 4 |
| Ecuador | 0 | 1 | 0 | 1 | 0 | 1 |
| El Salvador | 0 | 0 | 0 | 0 | 1 | 1 |
| Hong Kong | | | | | | |
| India | 0 | 0 | 0 | 0 | 5 | 5 |
| Indonesia | 0 | 1 | 0 | 1 | 1 | 2 |
| Iran | 0 | 2 | 0 | 2 | 0 | 2 |
| Israel | 0 | 3 | 0 | 3 | 2 | 5 |
| Kenya | | | | | | |
| Korea | 12 | 2 | 0 | 14 | 0 | 14 |
| Malaysia | 0 | 1 | 0 | 1 | 1 | 2 |
| Mexico | 6 | 17 | 4 | 27 | 2 | 29 |
| Pakistan | 0 | 1 | 0 | 1 | 2 | 3 |
| Panama | 1 | 0 | 0 | 1 | 0 | 1 |
| Peru | 0 | 3 | 0 | 3 | 2 | 5 |
| Philippines | 0 | 2 | 0 | 2 | 2 | 4 |
| Singapore | 0 | 1 | 1 | 2 | 0 | 2 |
| Sri Lanka | 0 | 0 | 0 | 0 | 1 | 1 |
| Taiwan | 2 | 2 | 0 | 4 | 3 | 7 |
| Thailand | 0 | 2 | 0 | 2 | 2 | 4 |
| Trinidad & Tobago | 1 | 0 | 0 | 1 | 0 | 1 |
| Turkey | 0 | 3 | 0 | 3 | 2 | 5 |
| Uruguay | 0 | 1 | 0 | 1 | 0 | 1 |
| Venezuela | 8 | 1 | 0 | 9 | 0 | 9 |
| Zimbabwe | 0 | 1 | 0 | 1 | 0 | 1 |
| Totals | | | | | | |
| All Countries | 173 | 72 | 17 | 262 | 127 | 389 |
| Developed Countries | 116 | 14 | 11 | 141 | 89 | 230 |
| Developing Countries | 54 | 58 | 6 | 118 | 36 | 154 |
| Eastern European Countries | 3 | 0 | 0 | 3 | 2 | 5 |

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